

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2455 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements? No
2. To be referred to the Reporter or not? No :
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement? No
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No :

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GSRTC

Versus

IBRAHIM UMRAJI MUSAPATEL

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Appearance:

MR HARDIK C RAWAL for Petitioner  
MR JS BRAHMBHATT for Respondent No. 1

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CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 12/07/1999

ORAL JUDGEMENT

1. The prayer of the petitioner in this writ petition is for quashing the Award dated 20.11.1998 passed by the Labour Court, Vadodara, in Reference No.882 of 1994.
2. This petition arise out of the following facts :  
The respondent was employed as Bus Conductor with

the petitioner Gujarat State Road Transport Corporation. At the time of surprise checking it was found that the respondent collected fare from group of passengers, but did not issue tickets. Other irregularities were also noticed, namely, tickets were not punched. It was therefore *prima facie* found to be a case of short term embezzlement. The Departmental Inquiry was conducted in which the charges were found established. Consequently the respondent was dismissed from service vide order dated 4.3.1994. Feeling aggrieved the respondent approached the Labour Court. The Labour Court from impugned Award dated 20.11.1998 quashed the dismissal order and directed reinstatement of the respondent on his original post without backwages. This Award has been challenged on the ground that it is unjust and illegal.

3. Learned Counsel for the parties have been heard. Since the writ petition has been admitted it can be finally disposed of at this stage. No Counter Affidavit has been filed by the respondent.

4. In the course of argument it has been admitted by the two sides that the respondent has been reinstated on the post of conductor after the impugned Award passed by the Labour Court. No interim order was passed by this Court on 8.4.1999 or thereafter. Consequently if without any stay order from this Court and in compliance of the impugned Award the petitioner has reinstated the respondent, the grievance of the petitioner against reinstatement of the respondent hardly survives and as such it does not require minute discussion or interference.

5. The Labour Court has not awarded any backwages. This portion of the Award is also not likely to be interfered.

6. Learned Counsel for the petitioner, however, contended that the charges were of serious in nature which were established against the respondent and as such the respondent should have been dismissed from the service. However, he contends in alternative that some suitable punishment may be awarded to the respondent though he has been reinstated. Suggestion has been that the respondent may not be reinstated to the post of Conductor. However, no equivalent post of Conductor was brought to my notice on which it can be ordered that the respondent should be reinstated. Reinstatement on a lower post than that of bus conductor without giving an opportunity of hearing to the respondent in this writ petition is not possible. However, looking to the nature

of the allegations against the respondent and the charges proved against him the interest of justice will be met if the order for stoppage of four increments with cumulative effect is passed after confirming the Award of the Labour Court.

7. For the reasons stated above the writ petition is disposed of with direction that the Award of the Labour Court is confirmed with addition that four annual increments of the respondent with effect from 20.11.1998 shall be stopped with cumulative effect. No order as to costs.

sd/-

Date : July 12, 1999 ( D. C. Srivastava, J. )

\*sas\*